

### REMARKS

Filed concurrently herewith is a Request for a Two-Month Extension of Time which extends the shortened statutory period for response to September 22, 2004. Accordingly, Applicants respectfully submits that this response is being timely filed.

The Official Action dated April 22, 2004 has been received and its contents carefully noted. In view thereof, claims 62-69 have been canceled, claims 38-40, 54-56 and 61 have been amended and new claims 70 and 71 have been added in order to better define that which Applicants regard as the invention. Accordingly, claims 38-61, 70 and 71 are presently pending in the instant application. Further, this Preliminary Amendment accompanies Applicants' Request for Continued Examination.

With reference now to the Official Action and particularly page 2 thereof, Applicants hereby acknowledge with thanks, the Examiner's indication that the arguments set forth in Applicants' response filed February 3, 2004 have been fully considered and hereby acknowledges the Examiner's response to such arguments. This response has been fully considered and in view of the foregoing amendments, it is respectfully submitted that Applicants' claimed invention as set forth in each of independent claims 38-40, 54-56, 61, 70 and 71 now clearly distinguish over the prior art of record and are in proper condition for allowance for at least the reasons discussed hereinbelow in detail.

With reference to page 4 of the Office Action, the drawings have been objected to as including misspellings, particularly, misspellings set forth in Figs. 10, 19, 24, 25 and 26. In this regard, filed concurrently herewith is a Request for Drawing Change Approval wherein each of Figs. 10, 19, 24 and 26 are presented having the misspellings cured (note, Fig. 25 also included a misspelling of SCHEDULING). Accordingly, it is respectfully submitted that Applicants' drawings are now in proper formal condition for allowance.

Referring now to page 5 of the Office Action, claims 38, 39, 54, 55 and 61 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,270,809 issued to Gammie et al. This rejection is respectfully traversed in that the patent to Gammie et al. neither discloses nor suggests that which is presently set forth by Applicants' claimed invention.

Specifically, as can be seen from the foregoing amendments, independent claim 38 has been amended to recite that the broadcasting station transmits to the television receiver determining data for determining initial transmission scheduling time and retrieval information at the same time, said retrieval information making said television receivers retransmit the response information when communication between the television receivers and the response information receiving equipment is unsuccessful. As the Examiner will further note, each of independent claims 39, 54, 55 and 61 have been amended in a similar manner.

In reviewing the Gammie et al. reference, it is noted that this reference clearly fails to disclose or remotely suggest determining data for determining initial transmission scheduling time and retrieval information at the same time as is specifically recited in Applicants' claimed invention. Moreover, this reference clearly fails to utilize the retrieval information in making the television receivers retransmit the response information when communication between the television receivers and the response information receiving equipment is unsuccessful. Accordingly, it is respectfully submitted that Applicants' claimed invention as set forth in each of independent claims 38, 39, 54, 55 and 61 as well as those claims which depend therefrom clearly distinguish over the teachings of Gammie et al. and are in condition for allowance. Support for the foregoing amendments is clearly set forth throughout Applicants' specification particular with reference to Fig. 14, the description thereof in Applicants'

specification as well the description at pages 65-67. Accordingly, it is respectfully submitted that no new matter has been added.

Turning now to page 8 of the Office Action claims 40, 41, 48-50, 52, 56-58 and 62-69 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,237,146 issued to Richards et al. This rejection is respectfully traversed in that the patent to Richards et al. neither discloses nor suggests that which is presently set forth by Applicants' claimed invention.

Again, as can be seen from the foregoing amendments, independent claim 40 has been amended in a manner similar to that set forth with respect to claim 38 and recites that upon receipt of determining data for determining initial transmission scheduling time and retrieval information transmitted by the broadcasting station at the same time, said retrieval information making said television receiver retransmit said response information when communication was said response information receiver equipment is unsuccessful. Again, this feature is nowhere disclosed in or suggested by the patent to Richards, et al. While Richards et al. make disclose a device similar to that of Applicant's claimed invention, it clearly fails to disclose or suggest receipt of determining data for determining initial transmission scheduling time and retrieval information transmitted by the broadcast station at the same time. Accordingly, it is respectfully submitted that independent claim 40 as well as those claims which depend therefrom are in proper condition for allowance.

Similarly, with respect to independent claim 56, this claim likewise recites that the receiving means determine the data for determining initial transmission scheduling time and retrieval information transmitted by the broadcasting station at the same time and that the communication means retransmits the response information according to the retrieval information when communication with the response information receiving equipment is

unsuccessful. Accordingly, in that independent claim 56 specifically recites that the receiving means determines data for determining initial transmission scheduling time and retrieval information transmitted by the broadcasting station at the same time, it is respectfully submitted that independent claim 56 is likewise distinguished over the teachings of Richards et al. and that independent claim 56 as well as those claims which depend therefrom is now in proper condition for allowance.

With respect to claims 62-69, as can be seen from the foregoing amendments, these claims have been canceled and consequently, further discussion with respect thereto is no longer believed to be warranted.

With reference now to page 14 of the Office Action, claims 42, 51, 53 and 59 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Richards et al. In this regard, it is respectfully submitted that each of claims 42-51 and 53 depend from independent claim 40 and dependent claim 59 depends from independent claim 56, which for the reasons discussed hereinabove are now believed to be in proper condition for allowance. Accordingly, it is respectfully submitted that each of claims 42, 51, 53 and 59 are in proper condition for allowance due to their dependency.

Referring now to page 15 of the Office Action, claims 43-47 and 60 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Richards et al. in view of U.S. Patent No. 5,966,636 issued to Corrigan et al. This rejection is likewise respectfully traversed in that claims 43 and 47 are directly dependent upon independent claim 40 and claim 60 is directly dependent upon independent claim 56 which for the reasons discussed hereinabove are now believed to be in proper condition for allowance. Accordingly, by way of their dependency, it is respectfully submitted that each of claims 43, 47 and 60 are likewise in proper condition for allowance.

Referring to page 16 of the Office Action, claims 44-46 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Richards et al. in view of Corrigan et al. and further in view of U.S. Patent No. 6,012,086 issued to Lowell. Again, this rejection is respectfully traversed in that claims 44-46 are dependent upon independent claim 40 and include all the limitations thereof. Accordingly, for the reasons discussed hereinabove with respect to claim 40 it is respectfully submitted that claims 44-46 are likewise now in proper condition for allowance.

With respect to new claims 70 and 71, new independent claim 70 recites a data receiving method for receiving data from a broadcast advice and sending response information by way of a communication line to response information receiving equipment including transmitting data for determining initial transmission scheduling time and retrieval information transmitted at the same time from the broadcasting device, determining initial transmission scheduling time based on the data for determining initial scheduling time, and sending the response information to the response information receiving equipment at the initial transmission scheduling time and retransmitting the response information to the response information receiving equipment based on the retrieval information received concurrently with the data for determining initial transmission scheduling time when communication between the transmission receiver and the response information receiving equipment is unsuccessful. Again, as with Applicants' previous amendments, claim 70 recites a method wherein the transmitting data for determining initial transmission scheduling time and retrieval information transmitted at the same time from the broadcasting device. This claim further recites that the step of retransmitting the response information receiving equipment based on the retrieval information received concurrently with the data for determining initial transmission scheduling time. Accordingly, it is respectfully submitted

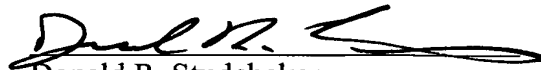
that new independent claim 17 clearly distinguishes over the prior art of record and is in proper condition for allowance.

With respect to new claim 71, this claim recites a program embodied in a recording medium for controlling, by a computer, a television receiver that receives data broadcast from a broadcasting device and sends response information to response information receiving equipment by way of a communication line where in the program comprises instructions for determining initial transmission scheduling times based on the data for determining initial transmission scheduling time and retransmitting the retrieval information based on the retrieval information received concurrently with the data for determining initial transmission scheduling time when communication with the response information receiving equipment is unsuccessful. Again, it is respectfully submitted that independent claim 71 clearly distinguishes over the prior art of record in that the program comprises instructions for determining initial transmission scheduling time based on the data for determining transmission scheduling time and retransmitting the retrieval information based on the retrieval information received concurrently with the data for determining initial transmission scheduling time. Accordingly, it is respectfully submitted that independent claim 71 is in proper condition for allowance.

Therefore, in view of the foregoing it is respectfully requested that the foregoing amendments to be entered and fully considered by the Examiner, that the objections and rejections of record be reconsidered and withdrawn by the Examiner, that claims 38-61, 70 and 71 be allowed that the application be passed to issue.

Should the Examiner believe a conference would be of benefit in expediting the prosecution of the instant application, he is hereby invited to telephone counsel to arrange such a conference.

Respectfully submitted,

  
Donald R. Studebaker  
Reg. No. 32,815

Nixon Peabody LLP  
401 9<sup>th</sup> Street N.W.  
Suite 900  
Washington, D. C. 20004  
(202) 585-8000